

IC 4-1-5

Chapter 5. Sale of Bonds of State Universities and Colleges

IC 4-1-5-1

State university or college; sale of bonds; notice; award to bidder offering lowest interest cost; continuing sales from day to day

Sec. 1. (a) Any state university or college established by the constitution or a statute having authority and power to issue bonds may sell such bonds at public or negotiated sale:

- (1) for the price or prices, but not for less than ninety percent (90%) of the par value of those bonds;
- (2) in the manner; and
- (3) at the time or times;

determined by that state university or college. However, in no event may the underwriter's discount exceed three percent (3%) of the par value.

(b) In the event that a state university or college determines to sell bonds at public sale, notice must be given in either of the following ways:

- (1) Notice of such sale shall be published once each week for two (2) weeks in an English language newspaper of general circulation published in the county in which the principal office of such state university or college is located, and in an English language newspaper of general circulation published in the state capital, the last of such publications to be at least seven (7) days prior to the date of sale. The notice shall set forth:

- (A) the amount of such bonds to be offered;
- (B) the denominations thereof;
- (C) the dates of maturity;
- (D) the maximum rate or rates of interest or the maximum net interest cost;
- (E) the date, place, and hour of sale; and
- (F) the minimum price to be paid for the bonds.

- (2) Notice of intent to sell such bonds shall be published once each week for two (2) weeks in an English language newspaper of general circulation published in the county in which the principal office of the state university or college is located and in an English language newspaper of general circulation published in the state capital. The notice shall state that any person interested in submitting a bid for the bonds may furnish in writing to the treasurer of the state university or college at the address set forth in the notice the person's name, address, and telephone number. The person may also furnish a telex number.

The notice of intent to sell bonds shall set forth:

- (A) the amount of the bonds to be offered;
- (B) the denominations;
- (C) the dates of maturity;
- (D) the maximum rate or rates of interest or the maximum net interest cost;
- (E) the place of sale;

(F) the time within which the name, address, and telephone number must be furnished, which shall not be less than seven (7) days after the last publication of the notice of intent to sell; and

(G) the minimum price to be paid for the bonds.

The treasurer shall cause each person so registered to be notified of the date and time bids will be received not less than twenty-four (24) hours before the date and time. The notification shall be by telephone at the number furnished by the person and also by telex if the person furnishes a telex number. Bids shall not be received more than ninety (90) days after the first publication of the notice of intent.

(c) Bonds sold at public sale shall be awarded to the bidder offering the lowest interest cost to be determined by computing the total interest on the bonds from the date thereof to the date of maturity and deducting therefrom the premium bid, if any, or adding thereto the amount of any discount, as the case may be. In the event no acceptable bid is received at the time fixed for sale of the bonds, the sale may be continued from day to day for a period not to exceed thirty (30) days without readvertising, but during the continuation of such sale, a bid shall not be accepted that offers a higher interest cost than the best bid received at the time fixed for such sale under subsection (b)(1) or (b)(2). The acceptability of a bid is within the sole discretion of the state university or college issuing the bonds. A state university or college may not negotiate a sale for an issue of bonds without public bidding under subsection (a) until the thirty (30) day period required by this subsection has passed for that issue if the state university or college has conducted a public sale for that issue under subsection (b).

(Formerly: Acts 1959, c.349, s.1.) As amended by Acts 1981, P.L.22, SEC.1; P.L.18-1983, SEC.1; P.L.16-1985, SEC.1.

IC 4-1-5-2

Bids; checks as guaranty of performance; liquidated damages

Sec. 2. (a) No bid other than a bid submitted by the federal government or any agency of the federal government shall be accepted, nor shall any contract of sale for the bonds be executed and delivered, unless the bid or contract is accompanied by a certified check or cashier's check in an amount equal to one percent (1%) of the principal amount of the bonds sold. The check must be drawn upon any bank or trust company, in or out of the state, which is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(b) The check required by subsection (a) shall be payable to the state university or college issuing the bonds and shall be held as a guaranty of the performance of the bid should the bid be accepted or as a guaranty of performance of the contract should the contract be signed.

(c) The check required by subsection (a) shall be returned to a bidder if that bidder's bid is not accepted, but if the bid is accepted

and should the bidder fail to perform the bid, the check and the proceeds of the check are the property of the state university or college and are considered its liquidated damages growing out of this default.

(d) A contract for the purchase of bonds at negotiated sale must provide that should the purchaser fail to perform the purchaser's obligation to pay for the bonds, the check and the proceeds from the check are the property of the state university or college and considered its liquidated damages arising from the default.

(Formerly: Acts 1959, c.349, s.2.) As amended by P.L.18-1983, SEC.2; P.L.17-1987, SEC.1; P.L.8-1991, SEC.1.

IC 4-1-5-3

Bidders; collusion; affidavit

Sec. 3. Before the delivery of such bonds to a successful bidder at any public sale, other than the federal government or any agency thereof, such bidder shall cause to be filed with the secretary of state a sworn affidavit acceptable to the secretary of state stating that no collusion or binding agreement existed between the successful bidder and any official of the issuing state university or college prior to the published date of sale.

(Formerly: Acts 1959, c.349, s.3.) As amended by P.L.18-1983, SEC.3.

IC 4-1-5-4

Definitions

Sec. 4. (a) The term "bonds" as used in this chapter includes bonds, debentures or other evidences of indebtedness.

(b) The term "person" includes, but is not limited to, a corporation, limited liability company, partnership, firm, association, joint venture or individual or any combination thereof.

(Formerly: Acts 1959, c.349, s.4.) As amended by Acts 1981, P.L.22, SEC.2; P.L.8-1993, SEC.5.

IC 4-1-5-5

Sale of bonds under prior law

Sec. 5. This chapter shall not be applicable to bonds advertised for sale or sold or contracted to be sold prior to March 13, 1959.

(Formerly: Acts 1959, c.349, s.5.) As amended by P.L.5-1984, SEC.7.